

Fair Political Practices Commission
Memorandum

To: Chairman Randolph, Commissioners Blair, Downey, Huguenin, and Remy

From: John W. Wallace, Assistant General Counsel
Luisa Menchaca, General Counsel

Subject: June 2005 Work Plan Revisions

Date: June 2, 2005

I. INTRODUCTION

Each year the Commission approves a regulatory work plan for the next calendar year.¹ The plan provides for quarterly work plan revisions. Attached is the June update to the regulatory work plan for calendar year 2005 reflecting changes during the first quarter.

II. PROPOSED REVISIONS

A. CAMPAIGN PROJECTS

Item 1. McCain-Feingold: Under the McCain-Feingold Act, federal law requires that 100% of the costs of a campaign mailing be paid from federal funds if the mailing supports or opposes a federal candidate. Costs of paraphernalia (such as bumper stickers, pins, and door hangings) are allocated on a 36%/64% ratio - where 64% is the maximum that can be paid from state funds. The Commission will consider a regulation to simplify compliance with both the Act's reporting requirements and federal law.

***CHANGE:** The interested persons meeting occurred in February. Pre-notice discussion was held in May. Rather than scheduling adoption in June, the Commission has determined that seeking advice from the Federal Elections Commission (FEC) would be desirable before adoption. Thus, a discussion will be held regarding the FEC request in July.*

Item 6. Disgorgement of Laundered Contributions: Section 85701 of Proposition 34 requires any candidate or committee that receives a laundered contribution to pay to the General Fund the amount of the contribution. The statute, however, is silent on the mechanism for disgorging the contribution and the timing of disgorgement.

***CHANGE:** This item was pulled from the agenda at the request of a public commenter. It has not yet been determined whether regulatory action will be pursued. Therefore, staff proposes to delete this item from the 2005 calendar at this time.*

¹ See staff memorandum dated December 1, 2004, *Approval of 2005 Regulatory Priorities*.

Item 7. Affiliated Entities (18428): This regulation discusses reporting by “affiliated entities.” It may be further amended to clarify the application of the aggregation provisions to local candidates and committees, and/or add a definition “affiliated entities” to possibly codify advice in the area.

***CHANGE:** This item has been delayed until October. The interested persons meeting occurred in May, but due to staff changes pre-notice discussion will be held in October, adoption will be in December.*

Item 10. Amending Advertising Disclosure Regulation 18450.4: This project considers amending the existing advertising disclosure regulatory scheme to codify the Commission’s resolution regarding the enforceability of disclosures on advertisements by general purpose committees.

***NEW ITEM:** This item will be considered in July for pre-notice and September for adoption.*

B. CONFLICT-OF-INTEREST DISQUALIFICATION AND DISCLOSURE

Item 2. Aggregation under Section 84308: Under certain circumstances, section 84308 disqualifies certain appointed “officers” of a public agency, who is running or has run for elective office, from participating in decisions affecting his or her campaign contributors. The statute provides that when a closed corporation is a party (or participant), the majority shareholder of the corporation is also a party (or participant). This project considers whether further clarification of this aggregation rule is necessary.

***CHANGE:** This item has been handled with Item A-7 above since they both deal with aggregation of contributions, although A-7 is a campaign provision, and B-2 controls disqualification. This item also has been delayed until October. The interested persons meeting occurred in May, but due to staff changes pre-notice discussion will be held in October, adoption will be in December.*

Item 5. Sections 87202 and 87204: Assuming and Leaving Office Statements. Staff is recommending that the Commission adopt a regulation clarifying when an official has assumed or left office, triggering the filing of statements of economic interests. Currently, Commission advice for statements of economic interests may be different than the interpretation used in the revolving door context. Staff is also asking the Commission to consider a regulation clarifying filing requirements for alternates and designees.

***CHANGE:** Pre-notice discussion of this item has been advanced to July and adoption will be in September.*

Item 9. Proposition 71 (Stem Cell Research): As part of staff’s review of SB 18 and ACR 1, staff noted that two sections of the new law expressly refer to the PRA. These

include Health & Safety Code sections 125290.30(g) and 125290.50. Staff believes it is necessary to investigate whether Proposition 71 amended the Act indirectly, and if so, what the Commission's role is in advising on and enforcing these provisions.

CHANGE: *An interested persons' meeting was held March 30, 2005. A memorandum presenting the issues raised under this project will be presented at the September Commission Meeting.*

III. 1090 UPDATE

The 1090 bill (AB 1558) made it out of the Assembly Elections and Reapportionment Committee on April 25. On May 26, the bill was passed out of the Appropriations Committee. More information is available in the Legislative Report.

Appendix 1: Regulation Calendar